IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WA.No. 444 of 2005()

AGAINST THE JUDGEMENT IN WPC.27618/2004 Dated 08/11/2004
.....

APPELLANT:

THALASSERY TALUK, FISH DISTRIBUTORS WORKERS UNION, THALASSERY, REPRESENTED BY ITS SECRETARY, M.ABOOBACKER, S/O.MOHAMMED, AGED 60 YEARS, FISH MARKET THALASSERY, KANNUR DISTRICT.

BY ADV. SRI.R.SURENDRAN
SMT.P.GOPIKA

RESPONDENTS:
---

1. KANNUR DISTRICIT MUSSEL DISTRIBUTORS & LABOURERS UNION REPRESENTED BY ITS PRESIDENT, PALAKKAD ALAVI, AGED 45 YEARS, S/O.P.MUHAMMED, RESIDING AT PALAKKAL HOUSE, CHALIL ROAD, P.O.TEMPLE GATE, THALASSERY-2.

2. THE SECRETARY, P.M.KAMARUDHEEN, AGED 39 YEARS, S/O.MUHAMMED, CHANDANAPARAMBIL VEEDU, CHALIL NAYANAR COLONY, P.O.TEMPLE GATE, THALASSERY-2.

3. THE TREASURER P.HAMZA, AGED 39 YEARS, S/O.MOIDEEN, POOKKOT HOUSE, CHALIL ROAD, P.O.TEMPLE GATE, NEAR CHRISTIANPALLY, THALASSERY-2.

4. THALASSERY MUNICIPALITY, REPRESENTED BY TIS SECRETARY, THALASSERY.

5. THE DIRECTOR OF MUNICIPALITIES,

THIRUVANANTHAPURAM.

6. THE CIRCLE INSPECTOR OF POLICE,
THALASSERY POLICE STATION.

7. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, LOCAL ADMINISTRATION DEPARTMENT,
THIRUVANANTHAPURAM.

R2 & 3 BY ADV. SRI.C.KHALID
SRI.N.GOPINATHA PANICKER
SRI.R.O.MUHAMED SHEMEEM
SRI.T.P.SAJID
R6 & 7 BY SR. GOVERNMENT PLEADER SMT. K.MEERA
R4 BY ADV. SRI.K.V.SOHAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.S.RADHAKRISHNAN, Ag.C.J. & M.N.KRISHNAN, J.

W.A.No.444 OF 2005

Dated this the 3rd day of April, 2007

JUDGMENT

K.S.Radhakrishnan, Ag.C.J.

This appeal is preferred by a third party aggrieved by the latter part of the direction that the petitioners in W.P.(C) No.27618/2004 shall not be harassed in case they are conducting the vending in a proper and hygienic manner without causing any nuisance to the public. The learned counsel appearing for the appellant submits that the said direction is contrary to Ext.P7 judgment wherein this court has directed implementation of Ext.P1 notification dt. 25.11.1990. In the counter affidavit filed by the 4th respondent Municipality it is stated that after the impugned judgment about 21 Mussel vendors are conducting sale outside the market and beside the road and that their applications cannot be entertained at this stage for want of space and the Municipality has not so far taken a decision due to these circumstances. It is also submitted by the standing counsel for the municipality that the municipality will take steps to provide more space by constructing additional area and those persons can be accommodated on seniority basis when space is available and that the

direction is given without taking note of Ext.P7 judgment. We make it clear that the impugned judgment will not confer any right on the petitioners to conduct vending unless it is permitted by the municipality. With the above observation writ appeal is disposed of.

K.S.RADHAKRISHNAN,
(Ag.CHIEF JUSTICE)

M.N.KRISHNAN,
(JUDGE)

mt/-